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July 1, 2024

BY ECF

The Honorable Mary Kay Vyskocil
U.S. District Court, S.D.N.Y.
500 Pearl Street, Room 2230
New York, New York 10007

**Re: 20230930-DK-Butterfly-1, Inc. v. HBC Investments LLC et al.,
No. 24-cv-3370 (MKV) (SN) (S.D.N.Y. filed May 2, 2024)**

Dear Judge Vyskocil:

I write on behalf of Plaintiff 20230930-DK-Butterfly-1, Inc., f/k/a Bed Bath & Beyond Inc., and further to my pre-motion letter of June 6, 2024. Dkt. 17.

Plaintiff contends that the Defendants cannot prevail on a motion to dismiss. As explained further in my pre-motion letter, the complaint alleges more than sufficient factual matter to support a plausible claim that the “blockers” at issue were ineffective to limit Defendants’ beneficial ownership of Plaintiff’s common stock in light of binding Second Circuit authority and the Defendants’ unprecedented trading program. *See id.* at 2-3. We are happy to elaborate on this position if the Court wishes to schedule a pre-motion conference.

If the Court does not wish to schedule a pre-motion conference, then Plaintiff respectfully asks the Court to enter the proposed briefing schedule submitted with Defendants’ pre-motion letter. *See* Dkt. 16 at 3. We agreed to this schedule after extensive negotiation with Defendants’ counsel, who have had a copy of the complaint since I emailed it to them on April 29. Plaintiff believes that setting the calendar now will avoid delaying further what is already a generous briefing schedule.

Respectfully submitted,

/s/ James A. Hunter

Copies by ECF: All Counsel of Record